

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14429 of 2004

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M/s Arihant Polytek, a proprietorship firm having its place of business at Halim Chowk (Opp.-Powergrid) in the town, P.O. & District-Kishanganj (Bihar) through it's proprietor Gopi Bothra, son of Sri Dharam Chand Bothra.

.... Petitioner

Versus

1. The State of Bihar
2. The Commissioner of Commercial Taxes, Bihar, New Secretariat, Patna.
3. The Assistant Commissioner of Commercial Taxes, Kishanganj Circle, Kishanganj.

.... Respondents

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Appearance:

For the Petitioner : Mr. Ramesh Kumar Agrawal,
Mr. Anupanand Jha, Advocates.

For the Respondents :

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

5 30-08-2012 This petition filed under Article 226 of the Constitution arises from the entry tax under the *Bihar Tax on Entry of Goods into Local Areas for Consumption, Use or Sale Therein Act, 1993* levied upon plastics granules imported by the writ petitioner. The petitioner has also challenged the constitutional validity of the amending Acts, Bihar Act 10 of 2001 and Bihar Act 9 of 2003.

Learned Advocate Mr. R.K.Agrawal has appeared for the petitioner. He says that the business of the petitioner has been closed for a long time.



The question of constitutional validity of the aforesaid Bihar Act 10 of 2001 and Bihar Act 9 of 2003 was the subject matter of challenge before this Court in the matter of ***M/s Indian Oil Corporation Limited & Anr. Vs. The State of Bihar & Ors.*** [2007(1) PLJR 502]. A Bench of this Court has held the Bihar Act 10 of 2001 and Bihar Act 9 of 2003 unconstitutional and ultra vires. Both the Acts having been held to be unconstitutional and ultra vires, the present petition has become infructuous. Besides, the business of the petitioner having been closed question of consequential relief does not arise.

Moreover, the aforesaid decision of this Court is the subject matter of challenge before the Hon'ble Supreme Court. We are informed at the bar that the matter is pending before a larger Bench of nine judges.

In view of the pendency of the matter before the Hon'ble Supreme Court, no consequential relief may be granted to the petitioner.

In above view of the matter, the petition is disposed of.

(R.M. Doshit, CJ)

(Ahsanuddin Amanullah, J)

Sujit/-